

Comment invited on 'Civil Union Amendment Bill'



The deadline for comments on the Civil Union Amendment Bill which seeks to remove the right of state-employed marriage officers to opt out of solemnising same sex marriage, has been extended to April 28 following a request by Freedom of Religion South Africa ([FOR SA](#))

Comments on the bill which is a severe violation of the religious freedom rights of marriage officers who have a conscientious objection to same sex marriage, can be submitted to dcarter@copesa.org.za and cc'd to speaker@parliament.gov.za

The right to refuse to do something because of one's conscience, religion, beliefs or opinion is protected in various legal instruments. Section 6 of the Civil Union Act, 2006 ("the Act") is one such section – it protects the fundamental right to freedom of conscience, religion, thought, belief and opinion as enshrined in section 15 of the Constitution.

Section 6 of the Act allows for State-employed marriage officers (such as magistrates, certain Home Affairs officers, etc.) to – for reasons of conscience, religion and belief – opt out of solemnising same-sex marriages.

The Civil Union Amendment Bill, 2018 which was introduced as a Private Member's Bill by COPE MP Deidre Carter, intends to

remove section 6 from the Act altogether. As a result, civil servants who are marriage officers because of their post in State institutions, will now have no option but to solemnise same-sex marriages. (A copy of the Bill can be viewed at www.forsa.org.za/document-library, click on folder "Civil Union Amendment Bill").

This is a severe violation of the (constitutionally protected) freedom of conscience, religion and belief of those State-employed marriage officers who have a conscientious objection to same-sex marriage, but who will now be forced – against their conscience – to do something which they believe to be sinful before God, potentially with eternal consequences for them personally.

In the Constitutional Court case of *Christian Education South Africa v Minister of Education* (2000), Justice Sachs stated as follows with regard to the right to religious freedom: "The right to believe or not to believe, and to act or not to act according to his or her beliefs or non-beliefs, is one of the key ingredients of any person's dignity. Yet freedom of religion goes beyond protecting the inviolability of the individual conscience.

"For many believers, their relationship with God or creation is central to all their activities. It concerns their capacity to relate in an intensely meaningful fashion to their sense of themselves, their community and their universe. For millions in all walks of life, religion provides support and nurture and a framework for individual and social stability and growth. Religious belief has the capacity to awake concepts of self-worth and human dignity which form the cornerstone of human rights. It affects the believer's view of society and founds the distinction between right and wrong..."

Freedom of religion includes not only the right to believe internally, but the right to live out that belief in one's everyday life and everyday activities. It is simply wrong in

law to argue that merely because a person is employed by the State, he/she no longer has the right to freedom of religion.

FOR SA believes that, instead of holding a proverbial gun against employees' heads and forcing them to violate their conscience or suffer the consequence, the problem that the Civil Union Amendment Bill seeks to address (namely an apparent shortage, in certain geographical areas, of marriage officers who are willing to solemnise same-sex marriages) can and should be addressed through practical solutions such as for e.g. roving marriage officers.